

AMENDED IN SENATE APRIL 23, 2015

AMENDED IN SENATE FEBRUARY 24, 2015

SENATE BILL

No. 13

Introduced by Senator Pavley

December 1, 2014

An act to amend Sections 5202, 10723, *10723.6*, 10723.8, 10724, 10733.3, 10735.2, 10735.4, 10735.6, and 10933 of the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 13, as amended, Pavley. Groundwater.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The act authorizes the State Water Resources Control Board to designate a basin as a probationary basin if the state board makes a certain determination and to develop an interim plan for the probationary basin. The act requires a local agency or groundwater sustainability agency to have 90 or 180 days, as prescribed, to remedy the deficiency if the board designates the basin as a probationary basin.

This bill would specify that the board is authorized to designate a high- or medium-priority basin as a probationary basin. This bill would provide a local agency or groundwater sustainability agency 90 or 180

days, as prescribed, to remedy certain deficiencies that caused the board to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin.

Existing law authorizes a combination of local agencies to form a groundwater sustainability agency by a joint powers agreement, memorandum of agreement, or other legal agreement, and authorizes a water corporation regulated by the Public Utilities Commission to participate in a groundwater sustainability agency if the local agencies approve.

This bill would authorize a mutual water company to participate in a groundwater sustainability agency and would provide that a water corporation or a mutual water company may participate through a memorandum of agreement or other legal agreement.

Existing law establishes a groundwater monitoring program pursuant to which specified entities, including a groundwater sustainability agency, may propose to be designated by the department as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a groundwater basin or subbasin. Existing law requires the department to identify the extent of monitoring of groundwater elevations that is being undertaken in groundwater basins and subbasins, and if the department determines that all or part of a basin or subbasin is not being monitored, to determine whether there is sufficient interest in establishing a groundwater management plan, an integrated regional water management plan, or a groundwater monitoring association.

This bill, if the department determines that all or part of a basin or subbasin is not being monitored, would require the department to determine whether there is sufficient interest in establishing a groundwater sustainability plan.

Existing law requires a local agency or combination of local agencies that elect to be a groundwater sustainability agency for a basin to submit a prescribed notice of intent to the Department of Water Resources. Existing law requires the department to post the notice on its Internet Web site within 15 days of receipt.

This bill would eliminate these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5202 of the Water Code is amended to
2 read:

3 5202. (a) This section applies to a person who does either of
4 the following:

5 (1) Extracts groundwater from a probationary basin 90 days or
6 more after the board designates the basin as a probationary basin
7 pursuant to Section 10735.2.

8 (2) Extracts groundwater on or after July 1, 2017, in an area
9 within a high- or medium-priority basin subject to the requirements
10 of subdivision (a) of Section 10720.7 that is not within the
11 management area of a groundwater sustainability agency and where
12 the county does not assume responsibility to be the groundwater
13 sustainability agency, as provided in subdivision (b) of Section
14 10724.

15 (b) Except as provided in subdivision (c), a person subject to
16 this section shall file a report of groundwater extraction by
17 December 15 of each year for extractions made in the preceding
18 water year.

19 (c) Unless reporting is required pursuant to paragraph (2) of
20 subdivision (c) of Section 10735.2, this section does not apply to
21 any of the following:

22 (1) An extraction by a de minimis extractor.

23 (2) An extraction excluded from reporting pursuant to paragraph
24 (1) of subdivision (c) of Section 10735.2.

25 (3) An extraction reported pursuant to Part 5 (commencing with
26 Section 4999).

27 (4) An extraction that is included in annual reports filed with a
28 court or the board by a watermaster appointed by a court or
29 pursuant to statute to administer a final judgment determining
30 rights to water. The reports shall identify the persons who have
31 extracted water and give the general place of use and the quantity
32 of water that has been extracted from each source.

33 (d) Except as provided in Section 5209, the report shall be filed
34 with the board.

35 (e) The report may be filed by the person extracting water or
36 on that person's behalf by an agency that person designates and
37 that maintains a record of the water extracted.

(f) Each report shall be accompanied by the fee imposed pursuant to Section 1529.5.

SEC. 2. Section 10723 of the Water Code is amended to read:

10723. (a) Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may opt to become a groundwater sustainability agency for that basin.

(b) Before opting to become a groundwater sustainability agency, and after publication of notice pursuant to Section 6066 of the Government Code, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin.

(c) (1) Except as provided in paragraph (2), the following agencies created by statute to manage groundwater shall be deemed the exclusive local agencies within their respective statutory boundaries with powers to comply with this part:

(A) Alameda County Flood Control and Water Conservation District, Zone 7.

(B) Alameda County Water District.

(C) Desert Water Agency.

(D) Fox Canyon Groundwater Management Agency.

(E) Honey Lake Valley Groundwater Management District.

(F) Long Valley Groundwater Management District.

(G) Mendocino City Community Services District.

(H) Mono County Tri-Valley Groundwater Management District.

(I) Monterey Peninsula Water Management District.

(J) Ojai Groundwater Management Agency.

(K) Orange County Water District.

(L) Pajaro Valley Water Management Agency.

(M) Santa Clara Valley Water District.

(N) Sierra Valley ~~Water~~ Groundwater Management District.

(O) Willow Creek Groundwater Management Agency.

(2) An agency identified in this subdivision may opt out of becoming the exclusive groundwater management agency within its statutory boundaries by sending a notice to the department, which shall be posted pursuant to Section 10733.3. If an agency identified in paragraph (1) opts out of becoming the exclusive groundwater management agency, any other local agency or combination of local agencies operating within the statutory

1 boundaries of the agency that has opted out may opt to become
2 the groundwater sustainability agency.

3 (3) A local agency listed in paragraph (1) may comply with this
4 part by meeting the requirements of Section 10733.6 or opting to
5 become a groundwater sustainability agency pursuant to this
6 section. A local agency with authority to implement a basin-specific
7 management plan pursuant to its principal act shall not exercise
8 any authorities granted in this part in a manner inconsistent with
9 any prohibitions or limitations in its principal act unless the
10 governing board of the local agency makes a finding that the
11 agency is unable to sustainably manage the basin without the
12 prohibited authority.

13 *SEC. 3. Section 10723.6 of the Water Code is amended to read:*

14 10723.6. (a) A combination of local agencies may form a
15 groundwater sustainability agency by using any of the following
16 methods:

17 (1) A joint powers agreement.

18 (2) A memorandum of agreement or other legal agreement.

19 (b) A water corporation regulated by the Public Utilities
20 Commission *or a mutual water company* may participate in a
21 groundwater sustainability agency ~~if the local agencies approve.~~
22 *through a memorandum of agreement or other legal agreement.*
23 *The authority provided by this subdivision does not confer any*
24 *additional powers to a nongovernmental entity.*

25 ~~SEC. 3.~~

26 *SEC. 4. Section 10723.8 of the Water Code is amended to read:*

27 10723.8. (a) Within 30 days of deciding to become or form a
28 groundwater sustainability agency, the groundwater sustainability
29 agency shall inform the department of its decision and its intent
30 to undertake sustainable groundwater management. The notification
31 shall include the following information, as applicable:

32 (1) The service area boundaries, the basin the agency is
33 managing, and the other groundwater sustainability agencies
34 operating within the basin.

35 (2) A copy of the resolution forming the new agency.

36 (3) A copy of any new bylaws, ordinances, or new authorities
37 adopted by the local agency.

38 (4) A list of interested parties developed pursuant to Section
39 10723.2 and an explanation of how their interests will be
40 considered in the development and operation of the groundwater

1 sustainability agency and the development and implementation of
2 the agency's sustainability plan.

3 (b) Except as provided in subdivision (d), 90 days following
4 the posting of the notice pursuant to this section, the groundwater
5 sustainability agency shall be presumed the exclusive groundwater
6 sustainability agency within the area of the basin the agency is
7 managing as described in the notice, provided that no other notice
8 was submitted.

9 (c) A groundwater sustainability agency may withdraw from
10 managing a basin by notifying the department in writing of its
11 intent to withdraw.

12 (d) This section does not preclude the board from taking an
13 action pursuant to Section 10735.6.

14 (e) The department shall post all notices received under this
15 section in accordance with Section 10733.3.

16 ~~SEC. 4.~~

17 *SEC. 5.* Section 10724 of the Water Code is amended to read:

18 10724. (a) In the event that there is an area within a high- or
19 medium-priority basin that is not within the management area of
20 a groundwater sustainability agency, the county within which that
21 unmanaged area lies will be presumed to be the groundwater
22 sustainability agency for that area.

23 (b) A county described in subdivision (a) shall provide
24 notification to the department pursuant to Section 10723.8 unless
25 the county notifies the department that it will not be the
26 groundwater sustainability agency for the area. Extractions of
27 groundwater made on or after July 1, 2017, in that area shall be
28 subject to reporting in accordance with Part 5.2 (commencing with
29 Section 5200) of Division 2 if the county does either of the
30 following:

31 (1) Notifies the department that it will not be the groundwater
32 sustainability agency for an area.

33 (2) Fails to provide notification to the department pursuant to
34 Section 10723.8 for an area on or before June 30, 2017.

35 ~~SEC. 5.~~

36 *SEC. 6.* Section 10733.3 of the Water Code is amended to read:

37 10733.3. The department shall post all notices it receives
38 pursuant to Section 10723.8 on its Internet Web site within 15
39 days of receipt.

~~SEC. 6.~~

SEC. 7. Section 10735.2 of the Water Code is amended to read:

10735.2. (a) The board, after notice and a public hearing, may designate a high- or medium-priority basin as a probationary basin, if the board finds one or more of the following applies to the basin:

(1) After June 30, 2017, none of the following have occurred:

(A) A local agency has decided to become a groundwater sustainability agency that intends to develop a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has formed a groundwater sustainability agency or prepared agreements to develop one or more groundwater sustainability plans that will collectively serve as a groundwater sustainability plan for the entire basin.

(C) A local agency has submitted an alternative that has been approved or is pending approval pursuant to Section 10733.6. If the department disapproves an alternative pursuant to Section 10733.6, the board shall not act under this paragraph until at least 180 days after the department disapproved the alternative.

(2) The basin is subject to paragraph (1) of subdivision (a) of Section 10720.7, and after January 31, 2020, none of the following have occurred:

(A) A groundwater sustainability agency has adopted a groundwater sustainability plan for the entire basin.

(B) A collection of local agencies has adopted groundwater sustainability plans that collectively serve as a groundwater sustainability plan for the entire basin.

(C) The department has approved an alternative pursuant to Section 10733.6.

(3) The basin is subject to paragraph (1) of subdivision (a) of Section 10720.7 and after January 31, 2020, the department, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal.

(4) The basin is subject to paragraph (2) of subdivision (a) of Section 10720.7, and after January 31, 2022, none of the following have occurred:

(A) A groundwater sustainability agency has adopted a groundwater sustainability plan for the entire basin.

1 (B) A collection of local agencies has adopted groundwater
2 sustainability plans that collectively serve as a groundwater
3 sustainability plan for the entire basin.

4 (C) The department has approved an alternative pursuant to
5 Section 10733.6.

6 (5) The basin is subject to paragraph (2) of subdivision (a) of
7 Section 10720.7, and either of the following have occurred:

8 (A) After January 31, 2022, both of the following have occurred:

9 (i) The department, in consultation with the board, determines
10 that a groundwater sustainability plan is inadequate or that the
11 groundwater sustainability plan is not being implemented in a
12 manner that will likely achieve the sustainability goal.

13 (ii) The board determines that the basin is in a condition of
14 long-term overdraft.

15 (B) After January 31, 2025, both of the following have occurred:

16 (i) The department, in consultation with the board, determines
17 that a groundwater sustainability plan is inadequate or that the
18 groundwater sustainability plan is not being implemented in a
19 manner that will likely achieve the sustainability goal.

20 (ii) The board determines that the basin is in a condition where
21 groundwater extractions result in significant depletions of
22 interconnected surface waters.

23 (b) In making the findings associated with paragraph (3) or (5)
24 of subdivision (a), the department and board may rely on periodic
25 assessments the department has prepared pursuant to Chapter 10
26 (commencing with Section 10733). The board may request that
27 the department conduct additional assessments utilizing the
28 regulations developed pursuant to Chapter 10 (commencing with
29 Section 10733) and make determinations pursuant to this section.
30 The board shall post on its Internet Web site and provide at least
31 30 days for the public to comment on any determinations provided
32 by the department pursuant to this subdivision.

33 (c) (1) The determination may exclude a class or category of
34 extractions from the requirement for reporting pursuant to Part 5.2
35 (commencing with Section 5200) of Division 2 if those extractions
36 are subject to a local plan or program that adequately manages
37 groundwater within the portion of the basin to which that plan or
38 program applies, or if those extractions are likely to have a minimal
39 impact on basin withdrawals.

1 (2) The determination may require reporting of a class or
2 category of extractions that would otherwise be exempt from
3 reporting pursuant to paragraph (1) of subdivision (c) of Section
4 5202 if those extractions are likely to have a substantial impact on
5 basin withdrawals or requiring reporting of those extractions is
6 reasonably necessary to obtain information for purposes of this
7 chapter.

8 (3) The determination may establish requirements for
9 information required to be included in reports of groundwater
10 extraction, for installation of measuring devices, or for use of a
11 methodology, measuring device, or both, pursuant to Part 5.2
12 (commencing with Section 5200) of Division 2.

13 (4) The determination may modify the water year or reporting
14 date for a report of groundwater extraction pursuant to Section
15 5202.

16 (d) If the board finds that litigation challenging the formation
17 of a groundwater sustainability agency prevented its formation
18 before July 1, 2017, pursuant to paragraph (1) of subdivision (a)
19 or prevented a groundwater sustainability program from being
20 implemented in a manner likely to achieve the sustainability goal
21 pursuant to paragraph (3), (4), or (5) of subdivision (a), the board
22 shall not designate a basin as a probationary basin for a period of
23 time equal to the delay caused by the litigation.

24 (e) The board shall exclude from probationary status any portion
25 of a basin for which a groundwater sustainability agency
26 demonstrates compliance with the sustainability goal.

27 ~~SEC. 7.~~

28 *SEC. 8.* Section 10735.4 of the Water Code is amended to read:

29 10735.4. (a) If the board designates a basin as a probationary
30 basin pursuant to paragraph (1), (2), or (4) of subdivision (a) of
31 Section 10735.2, a local agency or groundwater sustainability
32 agency shall have 180 days to remedy the deficiency. The board
33 may appoint a mediator or other facilitator, after consultation with
34 affected local agencies, to assist in resolving disputes, and
35 identifying and implementing actions that will remedy the
36 deficiency.

37 (b) After the 180-day period provided by subdivision (a), the
38 board may provide additional time to remedy the deficiency if it
39 finds that a local agency is making substantial progress toward
40 remedying the deficiency.

(c) The board may develop an interim plan pursuant to Section 10735.8 for the probationary basin at the end of the period provided by subdivision (a) or any extension provided pursuant to subdivision (b), if the board, in consultation with the department, determines that a local agency has not remedied the deficiency that resulted in designating the basin as a probationary basin.

~~SEC. 8.~~

SEC. 9. Section 10735.6 of the Water Code is amended to read: 10735.6. (a) If the board designates a basin as a probationary basin pursuant to paragraph (3) or (5) of subdivision (a) of Section 10735.2, the board shall identify the specific deficiencies and identify potential actions to address the deficiencies. The board may request the department to provide local agencies, within 90 days of the designation of a probationary basin, with technical recommendations to remedy the deficiencies.

(b) The board may develop an interim plan pursuant to Section 10735.8 for the probationary basin one year after the designation of the basin pursuant to paragraph (3) or (5) of subdivision (a) of Section 10735.2, if the board, in consultation with the department, determines that a local agency has not remedied the deficiency that resulted in designating the basin a probationary basin.

~~SEC. 9.~~

SEC. 10. Section 10933 of the Water Code is amended to read: 10933. (a) The department shall commence to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin and subbasin.

(b) The department shall prioritize groundwater basins and subbasins for the purpose of implementing this section. In prioritizing the basins and subbasins, the department shall, to the extent data are available, consider all of the following:

- (1) The population overlying the basin or subbasin.
- (2) The rate of current and projected growth of the population overlying the basin or subbasin.
- (3) The number of public supply wells that draw from the basin or subbasin.
- (4) The total number of wells that draw from the basin or subbasin.
- (5) The irrigated acreage overlying the basin or subbasin.
- (6) The degree to which persons overlying the basin or subbasin rely on groundwater as their primary source of water.

1 (7) Any documented impacts on the groundwater within the
2 basin or subbasin, including overdraft, subsidence, saline intrusion,
3 and other water quality degradation.

4 (8) Any other information determined to be relevant by the
5 department, including adverse impacts on local habitat and local
6 streamflows.

7 (c) If the department determines that all or part of a basin or
8 subbasin is not being monitored pursuant to this part, the
9 department shall do all of the following:

10 (1) Attempt to contact all well owners within the area not being
11 monitored.

12 (2) Determine if there is an interest in establishing any of the
13 following:

14 (A) A groundwater sustainability plan pursuant to Part 2.74
15 (commencing with Section 10720).

16 (B) A groundwater management plan pursuant to Part 2.75
17 (commencing with Section 10750).

18 (C) An integrated regional water management plan pursuant to
19 Part 2.2 (commencing with Section 10530) that includes a
20 groundwater management component that complies with the
21 requirements of Section 10753.7.

22 (D) A voluntary groundwater monitoring association pursuant
23 to Section 10935.

24 (d) If the department determines that there is sufficient interest
25 in establishing a plan or association described in paragraph (2) of
26 subdivision (c), or if the county agrees to perform the groundwater
27 monitoring functions in accordance with this part, the department
28 shall work cooperatively with the interested parties to comply with
29 the requirements of this part within two years.

30 (e) If the department determines, with regard to a basin or
31 subbasin, that there is insufficient interest in establishing a plan
32 or association described in paragraph (2) of subdivision (c), and
33 if the county decides not to perform the groundwater monitoring
34 and reporting functions of this part, the department shall do all of
35 the following:

36 (1) Identify any existing monitoring wells that overlie the basin
37 or subbasin that are owned or operated by the department or any
38 other state or federal agency.

1 (2) Determine whether the monitoring wells identified pursuant
2 to paragraph (1) provide sufficient information to demonstrate
3 seasonal and long-term trends in groundwater elevations.

4 (3) If the department determines that the monitoring wells
5 identified pursuant to paragraph (1) provide sufficient information
6 to demonstrate seasonal and long-term trends in groundwater
7 elevations, the department shall not perform groundwater
8 monitoring functions pursuant to Section 10933.5.

9 (4) If the department determines that the monitoring wells
10 identified pursuant to paragraph (1) provide insufficient
11 information to demonstrate seasonal and long-term trends in
12 groundwater elevations, the department shall perform groundwater
13 monitoring functions pursuant to Section 10933.5.